

‘claims.’ . . . The correct procedural vehicle for removing individual ‘claims’ from a larger ‘action’ is Rule 21.”).

Rule 21 provides that the Court may at any time, on motion or on its own, add or drop a party or claim. Other circuits disagree, but district courts in this circuit routinely apply Rule 21, rather than Rule 41, when dismissing fewer than all defendants or claims. *United States ex rel. Doe v. Preferred Care, Inc.*, 326 F.R.D. 462, 464 (E.D. Ky. 2018) (citing cases). This distinction between Rules 41 and 21 is not meaningless. *Id.* at 465. First, dropping less than the entirety of an action risks prejudice to the other parties. And, secondly, this is a federal court, where the rules matter. *Id.* In other words, “the procedural vehicle makes a difference.” *EQT Gathering, LLC v. A Tract of Prop. Situated in Knott Cty., Ky.*, No. CIV.A. 12-58-ART, 2012 WL 3644968, at *4 (E.D. Ky. Aug. 24, 2012).

For these reasons, the Court will construe the Dismissal Motion as a motion under Rule 21 to drop a claim, and the Court must make an independent determination that dropping this claim is appropriate. Here, the Court has little difficulty concluding that the interests of justice support dropping the claim as requested, given both its potential for increasing judicial efficiency in resolving this dispute and the absence of any objection.

Because the Dismissal Motion indicates that the claim for “[p]unitive damages in an amount commensurate with the conduct of the Defendants” (Doc. No. 1-1 at 5) be dismissed with prejudice, Plaintiffs’ claim for “punitive damages” is hereby **DISMISSED with prejudice**.

IT IS SO ORDERED


ELI RICHARDSON
UNITED STATES DISTRICT JUDGE